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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,681	10/24/2001	Mark E. Toth	20404/301	8295

7590 07/28/2004

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[REDACTED] EXAMINER

SHERR, CRISTINA O

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

3621

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/037,681	TOTH, MARK E. <i>ST</i>	
	Examiner	Art Unit	
	Cristina O Sherr	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 October 2001.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/22/02</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to the application filed 24 October 2001.

Claims 1-20 have been examined in this case.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 22 April 2002 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

Specification

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLorme et al (US 5,948,040A) in view of Battistini et al (US 6,087,927A).

6. Regarding claim 1 –

Battistini discloses a computer code embodied on a computer readable medium for a customer-centric restaurant communication system, comprising: a code segment that

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provides a user interface that allows a restaurant diner to order food and drinks; a code segment that provides a virtual server as part of the user interface, for assisting the restaurant diner with the user interface; a code segment that provides bill payment functionality to allow the restaurant diner to pay for the food and drinks with cash, a check, credit card, or a gift certificate; and a code segment that provides entertainment services to occupy the attention of the restaurant diner (e.g. col 2 ln 5 – col 5 ln 55). Delorme discloses the a computer code embodied on a computer readable medium, as in claim 1 for the choosing and purchasing of merchandise without human intervention (e.g. col 6 ln 55 – col 7 ln 65).

7. Regarding claim 2 –

Delorme discloses a computer code embodied on a computer readable medium for a communication system wherein the entertainment service is movie information access (e.g. col 6 40-65).

8. Regarding claim 3 –

Delorme discloses a computer code embodied on a computer readable medium wherein the entertainment service is a game (e.g. col 6 ln 40-65).

9. Regarding claim 4 –

Delorme discloses a computer code embodied on a computer readable medium for a communication system wherein the entertainment service is Internet access for browsing websites (e.g. col 6 ln 55-65).

10. Regarding claim 5 –

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Delorme discloses a computer code embodied on a computer readable medium for a communication system wherein the entertainment service is Internet access in which browsing is limited to a predetermined set of websites (e.g. col 6 ln 55-65).

11. Regarding claim 6 –

Delorme discloses a computer code embodied on a computer readable medium for a communication system further comprising a code segment that allows the restaurant diner to send Internet e-mail messages (e.g. col 6 ln 40-55).

12. Regarding claim 7 –

Delorme discloses a computer code embodied on a computer readable medium for a communication system further comprising a code segment that allows the customer to send messages to a second customer also using the communication system (e.g. col 7 ln 5-15).

13. Regarding claim 8 –

Battistini discloses a computer code embodied on a computer readable medium for a customer centric restaurant communication system from claim 1, further comprising a code segment that provides a data mining analysis tool for analyzing transactions performed by the restaurant communication system (e.g. col 5 ln 5-55).

14. Regarding claim 9 –

Battistini discloses a computer code embodied on a computer readable medium for a customer centric restaurant communication system from claim 1, further comprising a code segment that allows the restaurant diner to purchase restaurant gift certificates (e.g. col 5 ln 40-55).

15. Regarding claim 10 –

Battistini discloses a computer code embodied on a computer readable medium for a customer centric restaurant communication system from claim 1, further comprising a code segment that allows the restaurant diner to place an order from a remote location via the Internet (e.g. col 6 ln 1-20).

16. Regarding claim 11 –

Delorme discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that manages an incentive program to encourage the restaurant diner to order the merchandise (e.g. col 10 ln5-30).

17. Regarding claim 12 –

Delorme discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that provides integrated human resource capabilities (e.g. col 12 ln 25-50).

18. Regarding claim 13 –

Delorme discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that performs voice recognition and voice synthesis to allow the customer to operate the communication system even if disabled (e.g. col 12 ln 25-50).

19. Regarding claim 14 –

Delorme discloses a computer code embodied on a computer readable medium for a customer centric communication system wherein the virtual server is an animated figure that emulates human personality traits (e.g. col 22 ln 20-35).

20. Regarding claim 15 –

Battistini discloses a computer code embodied on a computer readable medium for a customer centric restaurant communication system from claim 1, wherein the virtual server teaches the restaurant diner how to operate the restaurant communication system (e.g. col 8 ln 20-35).

21. Regarding claim 16 –

Battistini discloses a computer code embodied on a computer readable medium for a customer centric restaurant communication system from claim 1, wherein the virtual server suggestively sells the food and the drinks to the restaurant diner (e.g. col 8 ln 20-40).

22. Regarding claim 17 –

Delorme discloses a computer code embodied on a computer readable medium for a customer centric communication system from claim 1, further comprising a code segment that allows the customer to make a reservation via the Internet (e.g. col 22 ln 20-35).

23. It would be obvious for person of ordinary skill in the art to combine the teachings of Battistini and Delorme in order to obtain a more efficient restaurant that is more economical to run and maintain.

24. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLorme et al (US 5,948,040A) in view of Battistini et al (US 6,087,927A).

25. Regarding claim 18 –

Battistini discloses a computer code embodied on a computer readable medium for a customer-centric restaurant communication system, comprising: a code segment that provides a user interface that allows a restaurant diner to order food and drinks; a code segment that provides a virtual server as part of the user interface, for assisting the restaurant diner with the user interface; a code segment that provides bill payment functionality to allow the restaurant diner to pay for the food and drinks; and a code segment that provides entertainment services to occupy the attention of the restaurant diner the a computer code embodied on a computer readable medium, as in claim 1 for the choosing and purchasing of merchandise without human intervention (e.g. col 6 In 55 – col 7 In 65).

Delorme discloses the a computer code embodied on a computer readable medium, as in claim 1 for the choosing and purchasing of merchandise without human intervention (e.g. col 6 In 55 – col 7 In 65).

26. Regarding claim 19 –

Delorme discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that allows the restaurant diner to send messages to a second restaurant diner also using the restaurant communication system (e.g. col 7 In 5-15).

27. Regarding claim 20 –

Delorme discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that manages an incentive program to encourage the restaurant diner to order the merchandise (e.g. col 10 ln5-30).

28. It would be obvious for person of ordinary skill in the art to combine the teachings of Battistini and Delorme in order to obtain a more efficient restaurant that is more economical to run and maintain.

29. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

31. Battistini et al (US 5,907,275A) disclose an order communication system for restaurants.

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina O Sherr whose telephone number is 703-305-0625. The examiner can normally be reached on Monday through Friday 8:30 to 5:00.

33. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

34. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-247-9197 (toll-free).

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